



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

LNO/166333

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 30, 2015, under Wis. Admin. Code § DCF 201.07(1)(e), to review a decision by the Milwaukee Early Care Administration - MECA in regard to Other, a hearing was held on June 17, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly issued a lien against the Petitioner for an unpaid public assistance debt.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Children and Families  
201 East Washington Avenue, Room G200  
Madison, Wisconsin 53703

By: Jashema Wallace

Milwaukee Early Care Administration - MECA  
Department of Children And Families  
1220 W. Vliet St. 2nd Floor, 200 East  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On March 8, 2013, the agency issued a Client Child Care Overpayment Notice and worksheets to the Petitioner informing her that the agency intends to recover an overissuance of child care

benefits in the amount of \$13,988.67 for the period of January 1, 2011 – December 31, 2011. The notice further informed the Petitioner of the right to request a hearing by filing an appeal with the Division of Hearings and Appeals within 45 days of the date of the notice.

3. On or about March 8, 2013, the client contacted the agency to discuss the overpayment.
4. On May 2, 2013, June 4, 2013 and July 2, 2013, the agency issued dunning notices to the Petitioner.
5. On March 21, 2014 and March 24, 2014, the agency issued Client Child Care Overpayment Notices and worksheets to the Petitioner informing her that the agency intends to recover an overissuance of child care benefits in the amount of \$2,303.20 for the period of April 7, 2013 – June 30, 2013. The notice further informed the Petitioner of the right to request a hearing by filing an appeal with the Division of Hearings and Appeals within 45 days of the date of the notice.
6. On May 5, 2015, a payment of \$49.10 was received toward the Petitioner's unpaid public assistance debt.
7. On May 23, 2015, the agency issued a Notice of Warrant Docketed to the Petitioner informing her that a warrant has been docketed for the collection of delinquent child care debt in the amount of \$16,252.77.
8. On May 30, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

There is no jurisdiction if a request for a hearing is not filed timely. A request for a hearing concerning the docketing of a warrant is untimely if it is not filed within 20 days from the date on the notice. Wis. Admin. Code § DCF 101.23(9)(a)5; see also, Wis. Stat. § 49.195(3s). A request for a hearing to dispute the merits of a child care overpayment is untimely if it is not filed within 45 days from the date on the notice. A hearing request is considered filed on the date of actual receipt by DHA, or the date of the postmark, whichever is earlier. Wis. Admin. Code § HA 3.05(3)(c). A hearing request that is not filed within the required time period must be dismissed for lack of jurisdiction. Wis. Admin. Code § HA 3.05(4)(e).

In this case, the Petitioner's request for a hearing on the docketing of a warrant is timely filed. At the hearing, the Petitioner testified that she disputes the merits of the overpayment. She concedes that she received and ignored the overpayment notices from 2013 and 2014. Petitioner did not request a hearing until May 30, 2015. Because the overpayment notices were issued more than two years ago and one year ago, respectively, no jurisdiction exists for DHA to consider the merits of the overpayments.

With regard to her appeal of the docketing of a warrant, such appeals are limited to questions of prior payment of the debt that DCF is proceeding against and mistaken identity of the debtor. Wis. Admin. Code § DCF 101.23(9)(a)5; See also, Wis. Stat. § 49.195(3s). There has been one prior payment but there is no dispute regarding prior payments. Further, the petitioner did not dispute that she is the person the agency found owed the debt. Therefore, I must conclude that the agency properly docketed a warrant against the Petitioner.

### **CONCLUSIONS OF LAW**

The agency properly docketed a warrant against the Petitioner for unpaid public assistance debts. No jurisdiction exists to consider the merits of the overpayments due to an untimely filing of the appeal.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 22nd day of September, 2015

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 22, 2015.

Milwaukee Early Care Administration - MECA  
Public Assistance Collection Unit